

**REPORT - PLANNING COMMISSION MEETING**  
**October 28, 2004**

**Project Name and Number:** Irvington Family Apartments (PLN2004-00307)

**Applicant:** BRIDGE Housing

**Proposal:** To consider a Planned District Major Amendment to reallocate density at 49 du/ac for a 2 acre site, a Preliminary Grading Plan, and Site Plan and Architectural approval for a 100 unit rental apartment complex with a small retail space.

**Recommended Action:** Approve based on findings and subject to conditions

**Location:** 40800 and portion of 40900 Grimmer Boulevard in the Irvington Planning Area

**Assessor Parcel Number(s):** 525-1054-001-01, 525-1054-001-07, 525-1054-001-06 (portion)

**Area:** 2.05 acres

**Owner:** Samuel N. Harrosh

**Agent of Applicant:** Tom Earley

**Consultant(s):** HMH Engineers (Engineers)  
MVE Partners (Architect)  
Cathy Garret (Landscape Architect)  
Fehr & Peers (Transportation Consultants)

**Environmental Review:** A Mitigated Negative Declaration was previously prepared and adopted for the General Plan Amendment and Rezoning of the site, which includes the anticipated development of this site.

**Existing General Plan:** Residential High (23-27 dwelling units per acre); Community Commercial

**Existing Zoning:** P-2004-92(I) Planned District (Irvington Overlay)

**Existing Land Use:** Existing Patio World retail establishment and a portion of the Tri-City Sporting Goods site.

**Public Hearing Notice:** A total of 353 notices were mailed to owners and occupants of property within 1000 feet of the site on the following streets: Grimmer Boulevard, Davis Street, Bay Street, Chapel Way, Eugene Street and Ladner Street. The notices to owners and occupants were mailed on October 15, 2004. A Public Hearing Notice was delivered to The Argus on October 11, 2004 to be published by October 14, 2004.

**Background and Previous Actions:** This site was the subject of a General Plan redesignation to include Residential High density development at 23-27 dwelling units per acre and was rezoned to P-2004-92(I) to include housing as a possible use as part of the Housing Element implementation effort. The Planning Commission recommended approval of this action to the City Council on November 20, 2003 and the City Council approved the redesignation and rezoning on December 9, 2003.

The property owners of Tri-City and Patio World approached the City of Fremont Office of Housing and Redevelopment staff regarding potential residential development at the Patio World site. As part of staff's implementation of the Housing Element, staff determined that redesignating the properties would implement those goals, specifically, Program 21 (Commercial and Industrial Redesignation), Program 22 (Redesignation and Rezoning of Older Shopping Center Sites) and Program 23 (Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments). Program 21,

Commercial and Industrial Redesignation, identified a portion of the Tri-City site as a housing development opportunity site. Program 23, Rezoning Sites to Mixed-Use to Accommodate Affordable Housing Developments, identified the Patio World site as a mixed-use development opportunity site. The Housing Element did not initially identify the entire Tri-City Sports site as an opportunity site. City of Fremont staff and the property owners subsequently agreed to include the redesignation of the Tri-City Sports site for potential future residential development as well. The redesignation and rezoning was considered consistent with Programs 21, 22 and 23. The redesignation and rezoning of the Tri-City Sports site occurred on December 9, 2003, as explained above.

**Project Description:** The proposed project is to consider a Planned District Major Amendment to reallocate density to 49 dwelling units per acre on a 2 acre site, a Preliminary Grading Plan, and Site Plan and Architectural Approval for a 100 unit rental apartment complex with a small retail space on the northwestern portion of the site at 40800 Grimmer Boulevard. BRIDGE Housing is proposing development of 100 rental units. The three-story over podium style complex will have an underground garage with 173 covered parking spaces and 20 surface parking spaces. The first floor of the complex will have a courtyard area with landscaping and community space.

Of the 100 units, the applicant is proposing 26 one-bedroom units, 34 two-bedroom units, and 40 three-bedroom units. The units will range in size from approximately 612 square feet to 999 square feet. Each unit will have a deck or patio area ranging from 60 square feet to 100+ square feet. In addition to the 100 residential units, BRIDGE Housing is proposing an approximately 747 square foot retail space at the corner of the main project entrance and Grimmer Boulevard.

## **PROJECT ANALYSIS:**

**General Plan Conformance:** The existing General Plan land use designation for the project site is a combination of Community Commercial and Residential High density (23-27 dwellings per acre). This General Plan designation allows the property owner to continue the commercial use of the site, redevelop the site with other commercial uses, a mixed use project, or redevelop the site for housing at 23-27 dwelling units per acre.

The applicant is proposing a density of 49 dwelling units per acre for 2.05 acres of the 8.6 acre site. The application, for the purposes of meeting the required mid-point of the density range, is being reviewed in conjunction with the application for Irvington Village. Irvington Village, with 115 units proposed on the remaining 6.56 acres of the site, has a proposed density of 18 dwelling units per acre. The two projects, with their combined density, will have 25 dwelling units per acre, thus achieving the required mid-point of the 23-27 dwellings per acre range. (Please refer to the Planned District Major Amendment for Density Reallocation for more details on the proposed density reallocation.)

The following General Plan Goals, Objectives, Policies and Implementation programs are applicable to the proposed project:

Fundamental Goal F8:	<i>A Diversity of residential, recreational, cultural, employment and shopping opportunities.</i>
Policy LU 1.20:	<i>Mixed use (residential/commercial) is allowed in Commercial Districts as specified by the zoning regulations for the respective district in order to increase the vitality and activity within commercial districts.</i>
Implementation 1:	<i>Develop design and development standards, including residential intensity standards, for mixed –use projects within commercial districts.</i>
Policy LU 1.9:	<i>To achieve a variety of housing types, the City has designated locations where moderate and higher density development is appropriate. Criteria for the location of higher density housing include access to transit, proximity to commercial areas, proximity to collector or arterial street, and a transition use where maximum flexibility in site design is required. For those areas where higher densities are indicated on the General Plan Diagram, construction of housing at significantly lower densities than planned would not meet the</i>

*City's goals. The City therefore established a minimum required density of development for all medium and high density residential uses as follows:*

- When the residential range is between 6.5 and 70 units per acre (ranges 8 – 15), and a development application has not been deemed completed for processing under the provisions of the Permit Streamlining Act by July 1, 2003, the minimum density of the project must be at the midpoint of the density range.*
- When calculation of the midpoint density results in a fraction of a unit equating to 0.50 or more, the minimum density shall be rounded up to the next whole number.*

Policy LU 1.12:	<i>To the maximum extent feasible, play areas and open spaces shall be located to avoid conflict between residents attempting to reach these facilities and vehicular traffic.</i>
Policy LU 1.21:	<i>All rental housing of four or more units, including housing developed as condominium but planned for rental shall incorporate features to make the housing adaptable to the needs of the physically disabled.</i>
Policy LU 1.24:	<i>Multi-family housing (with the exception of housing designed exclusively for seniors) shall be designed to accommodate the needs of families and children.</i>
Implementation 1:	<i>Encourage multi-family housing developments to include a percentage of units with three or more bedrooms consistent with the Housing Element Implementation Program 27 (Family and Larger Sized Units).</i>
Implementation 2:	<i>Incorporate appropriate amenities/play areas for children in multi-family housing developments.</i>

The proposed project is consistent with the existing General Plan land use designation for the project site because the proposed retail on the ground floor will provide vitality and interest at the entry corner of the building. The proposed project, with the proposed density reallocation, will be developed at the required mid-point density range for the site. The play area and common open space area has been designed in the central court yard area, away from vehicular traffic and accessible by all units without traversing vehicular traffic. The apartment building includes an elevator and provides appropriate features for the needs of the physically disabled. The 100 unit development is proposing to include 40 three-bedroom units, or 40 percent of the project, to address the needs of families with larger sized units. The development includes both active and passive play areas for children in the central courtyard areas to address the needs of families.

**Redevelopment Plan Conformance:** The project site is located in the Irvington Redevelopment Project Area and meets the following goals of the Redevelopment Agency: (1) creation of residential opportunities for various segments of the community; and (2) elimination of adverse physical conditions within the Project Area. The project also meets the Agency's overall goals to produce, enhance and preserve affordable housing. The proposed development is consistent with the Redevelopment Plan because it will create 100 new apartments, 49 percent of which the Agency will require to serve very low and low-income families. The proposed development also meets the Agency goal of eliminating adverse physical conditions in the Project Area by transforming an aging and underutilized commercial property into much needed residential units.

**Planned District Major Amendment for Density Reallocation:** The existing site was the subject of a General Plan redesignation to include a residential density designation of 23-27 dwellings per acre. The applicant is proposing to reallocate the density so that the 2.05 acres to be developed for 100 apartments would have a density of 49 dwellings per acre. The remainder of the 8.6 acre site would have a density requirement of 18 dwellings per acre. An application for the remainder of the site for development of 115 condominiums and townhomes at 18 units per acre is on the agenda for the Planning Commission meeting of October 28. The two separate applications, with a total of 215 units on 8.6 acres, would provide an overall density at the site of 25 dwellings per acre. This satisfies the requirement to meet the mid-point of the density range of 23-27 dwellings per acre. The approval of this application would effectuate the reallocation of density to this site.

**Zoning Regulations:** The existing zoning of the proposed project is P-2004-92(I) Planned District (Irvington Overlay). The R-3 zoning district is considered in evaluating the proposed project for general conformity with City standards, and the Planned District allows for variations from those standards. The applicant meets the majority of the site plan and architecture requirements of the R-3 district. Variations from the R-3 requirements provide for improved site planning, as detailed below.

The applicant meets the height requirement with a proposed building height of 42 feet where a maximum of 52 feet is allowed. The front setback is required to be 20 feet. The building is set back 25 feet while the stairway extends 11 feet into the front setback. Stairways are allowed to encroach up to six feet into a required yard. The R-3 standards state that the setback standard may be reduced to foster a pedestrian-oriented environment. These stairs are desirable to connect the apartment units to the sidewalk and enhance the pedestrian experience. The interior side and rear setback is required to be 10 feet. The proposal provides for at least 16 feet with encroachment of all architectural features complying with the Zoning Code.

The R-3 standards requires a maximum lot coverage of 50 percent. This creative building design, with expansive interior courtyards over a portion of the subterranean garage, provides a lot coverage of 48 percent. This assumes that the open courtyard area located on top of the subterranean garage is not included as coverage in the calculation. This assumption is justifiable in that the courtyard, while slightly elevated, is clear to the sky above. The lot coverage therefore meets the requirement of the R-3 district.

In terms of required open space, the R-3 district requires a minimum of 5,250 square feet of common open space for this 100 unit development. The open space may not be calculated if it is located within any required setback and must have a minimum dimension of 15 feet. Using those standards, the proposal well exceeds the requirements with nearly 20,000 square feet of common open space. The interior courtyards account for approximately 18,000 square feet with community rooms providing close to 2,000 square feet. The R-3 private open space requirement is for each unit above ground level to include a balcony of 60 square feet with a minimum dimension of 6 feet and at grade units are required to include a patio of 100 square feet with a minimum dimension of 10 feet. The proposal meets these private open space requirements.

Another requirement of the R-3 units is the provision of 100 cubic feet (cf) of storage space for each unit, located within the garage, patio or deck area. All of the three bedroom units meet this requirement with the provision of 108 cf. All of the two bedroom units generally meet this requirement with 96 cf of storage space. There are 26 one bedroom units. Six of these units generally meet the requirement with storage space of 96 cf. Of the remaining 20 units, 8 have deck storage space of 48 cf and have walk-in-closets that are 192 cf, which is larger than typically provided for a one bedroom unit. For the remaining 12 one-bedroom units, the storage space is 48 cf. The proposal does not meet the recommendations of the R-3 district for storage space. However, this reduced storage space is justified for the one-bedroom units because these smaller units have fewer occupants and should require less storage as a result of fewer persons.

Staff believes the site plan, architecture and landscape plans have adequately addressed staff comments and concerns; that effective conditions of approval have been incorporated to resolve any remaining, outstanding issues, and the project, as conditioned, merits all proposed deviations from the Fremont Municipal Code.

**Inclusionary Zoning:** The project meets the City's Inclusionary zoning requirements as 49 percent of the units will be required by the Fremont Redevelopment Agency to be affordable to very low and low-income persons and families. This exceeds the 15 percent affordability requirement of the Inclusionary ordinance.

**Parking:** The project does not meet the required parking. The City of Fremont parking standards require 1 covered parking space for each one bedroom unit for resident parking, plus 0.5 uncovered spaces per unit designated for guest parking only. Two or more bedroom units are required to provide 1 covered parking space plus 0.5 uncovered spaces per unit for residents, plus 0.5 uncovered spaces per unit designated for guest parking only. This amounts to a total of 187 parking spaces with 137 devoted to resident parking and 50 parking spaces devoted to guest parking. A 10 percent reduction is allowed for affordable housing projects. The adjusted parking requirement is a total of 168 spaces with 123

parking spaces for resident use and 45 parking spaces for guest use. The proposed commercial use of 747 square feet would require another 3 spaces.

The applicant proposes a total of 193 parking spaces with 173 located within an enclosed garage and 20 spaces located on a private street within the development. The 173 spaces provided within the garage area far exceeds the required 123 resident parking spaces. The 20 spaces located adjacent to the garage, including 17 for guest parking and 3 for the retail use, is less than the required 45 guest and 3 retail parking spaces. The applicant supports this proposal with a survey (attached as an enclosure) and the following statement:

"The project, including the parking provided, is designed to encourage a pedestrian friendly streetscape and to minimize large expanses of surface parking that would typically be associated with apartment buildings. The layout of the parking is also more compact and consistent with the lower density housing proposed on the adjacent parcel. In addition, by concentrating parking in the parking garage, more usable landscaped open-space is created on site (on the podium structure of the building). The number of parking spaces provided is also designed to be consistent with BRIDGE's experience in owning and managing similar properties ... and with BRIDGE's desire to provide the greatest level of safety and security for users of the parking garage."

The applicant has also submitted a survey to support this proposed deviation from the code. Planning staff has requested that the applicant construct the parking garage so that a portion of the garage may be made available for guest parking, if it is determined that the proposed guest parking is deficient.

Staff supports the initial proposal for 173 resident parking spaces located within the parking garage, and 20 spaces for guest and retail customer parking located outside adjacent to the garage. The applicant has submitted a survey detailing their experience with required guest spaces in their Bay Area apartment developments. The applicant is providing well in excess of the total parking required, if the garage and exterior spaces are combined. The applicant is providing a means to convert a portion of the parking garage to guest spaces if the need becomes evident. Staff has included a condition to address this parking conversion, if needed.

**Waste Management:** This project is subject to the provisions of the California Integrated Waste Management Act of 1989 (AB939), the City's Source Reduction and Recycling Element (1992), the Integrated Waste Management Ordinance (1995), and the Commercial/Industrial Recycling Plan (1997). These documents require that any new project for which a building permit application is submitted to include adequate, accessible, and convenient areas for collecting and loading trash and recyclable materials. The proposed plans, as conditioned, will meet these requirements.

## **DESIGN ANALYSIS:**

**Architecture and Site Planning:** The Irvington Family Apartments consists of 100 units of family housing and will include a community room, two large landscaped podium level courtyards, leasing and management offices, a large lobby/living room space and a smaller general purpose room for individual and group activities. The 100 units will be arranged in three stories over a parking garage which is partially subterranean. This arrangement allows units on the first floor to have individual entry stoops/stairs that engage the street level and encourage pedestrian activity. These stoops are located on all four sides of the building. The lowered parking garage also minimizes the height of the project and ensures that it is consistent in scale with the adjacent development as well as the surrounding commercial and residential uses. As noted earlier, the proposed height of 42 feet is within the allowable 52 foot height limit. The Irvington Family Apartments will also include a small commercial/retail space (747 square feet) with an outdoor plaza area at the intersection of Grimmer and the entry road to the community. The space will be geared toward providing services to the residents of the project, and the surrounding community.

The common areas of the Irvington Family Apartments are designed to meet the needs of families. Open spaces will provide for a variety of passive and active uses for tots, older children and adults. The major courtyard of the building is designed to take advantage of the project's southern exposure, providing for areas of direct and partial sun, suitable for both individual and group activities. The second smaller courtyard provides for more passive uses in a more sheltered private environment and is best suited for passive individual and small group uses. Each unit has a private balcony or patio. The interior community spaces, community rooms, offices, laundry, and lobby/living room surround the courtyard

level encouraging interaction with and across the courtyards as well as with the street. The building has two main circulation/elevator cores whose locations are designed to encourage a flow of people and activities through the courtyard and community spaces.

The building has a variety of horizontal and vertical layers that are designed to break up the overall massing of the building. The materials and colors of the Irvington Family Apartments have been chosen to provide for bands of different materials and colors, both horizontally and vertically, that soften the facades of the building. This layering is used in a consistent and cohesive architectural style that ties the many layers and details together into a visually pleasing and accessible building. Stucco is the main material of the public facing facades which are grounded with a base of concrete masonry units and metal grillwork. The main facades are accented by trellis work over the stoops to the units and at the grand stair to the podium, providing both additional layering and detail in the facades. This trellis work is also mirrored in the "eyebrows" that accent the façade in various places along the third story. The applicant indicates the earth tone colors of the project were chosen to respond to the Mediterranean climate of the area and the rolling hills of Fremont that transition from straw color to green and back again as the seasons change. The colors also respond to the variety of colors in the surrounding context, generally of a Mediterranean and earth tone quality, and are a neutral base for the varied colors in the project's landscape architecture. The Material Color and Sample Board, Exhibit "C", will be available at the Planning Commission meeting.

**City Landscape Architect Review of Proposed Tree Removal and Preservation:** The portion of the site designated for new development contains 30 mature trees as listed in the Tree Inventory Report Survey prepared by Hortscience July 2004. All of these trees are listed as designated for removal. The trees are in poor to fair condition and have been severely pruned to such an extent that they are damaged permanently. Therefore mitigation is not required. This is consistent with the provisions of the Tree Preservation Ordinance.

**View Impacts:** The proposed three-story over podium garage building, at 42 feet, is less than the R-3 allowed 52 foot height limit. The site is relatively flat and any view impacts are expected to be minimal. The building façade, as noted above in the Architecture and Site Planning section, has both vertical and horizontal articulation, with different colors also used to break up the façade of the structure. Use of trellises and metal grillwork also breaks up the massing of the building.

## **ENGINEERING ANALYSIS:**

**Circulation/Access:** The proposed project is located at the northern corner of the existing Tri-City/Patio World parcel. The apartment building is surrounded on three sides by streets. Grimmer Boulevard is located adjacent to the northwest. The southwestern and southeastern sides are bordered by private vehicle access ways (PVAW), which serve as the on-site vehicle circulation for the apartment project and the adjacent development.

Sidewalks on all four sides of the apartment building provide for pedestrian circulation and access. The main entryway to the apartment building is along the Davis Street continuation PVAW, near the center of the building. Ground floor apartments along the building perimeter have pedestrian entries by staircases alongside the sidewalks. At-grade entries are provided at the proposed retail component.

Vehicular access to the apartment project is provided by a signalized intersection at Grimmer Boulevard and Davis Street. Once on-site, vehicles travel within the PVAW to access surface parking stalls and to access the apartment building's below-grade garage. The garage finished floor is approximately 5.5 feet below existing grade and is accessible by a gated ramp in the eastern corner of the building.

**Below-Grade Parking Garage:** The project includes a below-grade parking garage for residents of the apartment building. This parking structure and the parking stalls within, are constrained by the size, shape, and structural design of the building. Because of these constraints, the underground parking does not meet FMC section 8-22009(g)(2), which requires a minimum ten-foot inside wheel radius at changes in drive aisle direction, for minor drive aisles. The applicant is requesting deviation from the strict application of this development standard. The applicant's consultant, Fehr & Peers Transportation Consultants, supports the parking garage design and states that it will accommodate turning movements of passenger vehicles, based upon the following reasons and assumptions:

- It is assumed that single-unit (i.e. delivery) or garbage trucks are prohibited from entering the garage.
- All aisles are 24 feet wide and can accommodate two-way travel.
- All parking spaces will be assigned parking.
- Based on the traffic operations report, less than 75 AM or PM peak hour trips would be generated by the proposed apartment development.

The requirement to provide minimum ten-foot inside wheel radii provides areas at drive aisle intersections for vehicles to negotiate right-hand turns with relative ease, without having to impede the travel of oncoming vehicles at the intersection. The applicant's proposal will require vehicles to travel more slowly around corners and at times may lead to situations where vehicles have to back-up to let other vehicles through a turn. Typically, drivers will expect a more constrained layout in a subterranean parking garage and adjust their driving accordingly. Staff supports the proposed garage layout, with conditions of approval relating to assignment of parking spaces and designation of guest parking spaces.

**Grading/Topography:** The project site is currently developed as a parking lot for the Tri-City/Patio World building. The existing building, parking lot, and associated utilities will be demolished to make way for the proposed apartment building. Grading for the apartment building will primarily consist of excavation for the below-grade parking garage. The project civil engineer estimated grading to include 15,000 cubic yards of cut and 500 cubic yards of fill. A permit for grading in excess of 1,000 cubic yards requires Planning Commission review. A preliminary grading plan is included in the plan set. Findings and conditions of approval for the preliminary grading plan are included in Exhibit E.

**Drainage:** The drainage system for the apartment building project will consist of field inlets within the landscaped areas surrounding the building. The building designers intend to direct roof runoff through the landscaped areas in order to provide for infiltration and treatment of the urban runoff. Where this is not possible, due to the design of the building, roof runoff will be directed into a closed storm drain system. Treatment of this runoff will be required as part of the City's Urban Runoff Clean Water Program.

**Urban Runoff Clean Water Program:** The Federal Clean Water Act of 1972 and Water Quality Act (1987) require localities throughout the nation to obtain a National Pollutant Discharge Elimination System permit (NPDES) in order to discharge storm water into public waterways such as creeks, rivers, channels and bays. The applicant will comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board. Prior to issuance of the building permit, the developer must demonstrate compliance with the NPDES permit requirements. Installation of an in-ground storm water treatment device may be required in order to fully comply.

**Geologic Hazards:** A portion of the project site has been identified as an area of potential liquefaction on the official Seismic Hazard Zones, Niles Quadrangle map, released by the State Geologist on October 19, 2004. In accordance with the Seismic Hazard Mapping Act, the City requires that a geotechnical report be prepared defining and delineating any seismic hazard. The applicant must provide this report for City review with the tentative map application.

**ENVIRONMENTAL ANALYSIS:** An Initial Study and Negative Declaration were prepared for the General Plan Amendment and Rezoning and adopted by the City Council in December of 2003. There are no new impacts that were not analyzed in this environmental document. A finding is proposed that this project does not represent any new impacts not addressed in the Initial Study and Negative Declaration adopted in December of 2003.

#### **Response from Agencies and Organizations:**

This project was submitted to the Alameda County Congestion Management Agency (ACCOMA) for review to determine if implementation of the proposal would create an impact on the regional transportation network. No agencies have responded with any substantive comments on the proposed in-fill development project.

The applicant held two community meetings in 2004 to present their plans to the community and to elicit input from the neighborhood. The applicant also organized two tours of other sites that BRIDGE had developed for the interested public, Planning Commission and City Council.

**APPLICABLE FEES:**

**Development Impact Fees:** This project will be subject to Citywide Development Impact Fees. These fees may include fees for fire protection, capital facilities and traffic impact. Residential projects/units will also be subject to park facilities and park dedication in-lieu fees. These fees shall be calculated at the fee rates in effect at the time of building permit issuance.

**ENCLOSURES:** Exhibit "A" (Zoning)  
Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan)  
Informational  
Applicant Justification Statement  
Parking Survey  
Initial Study, Negative Declaration and Mitigation Monitoring Program

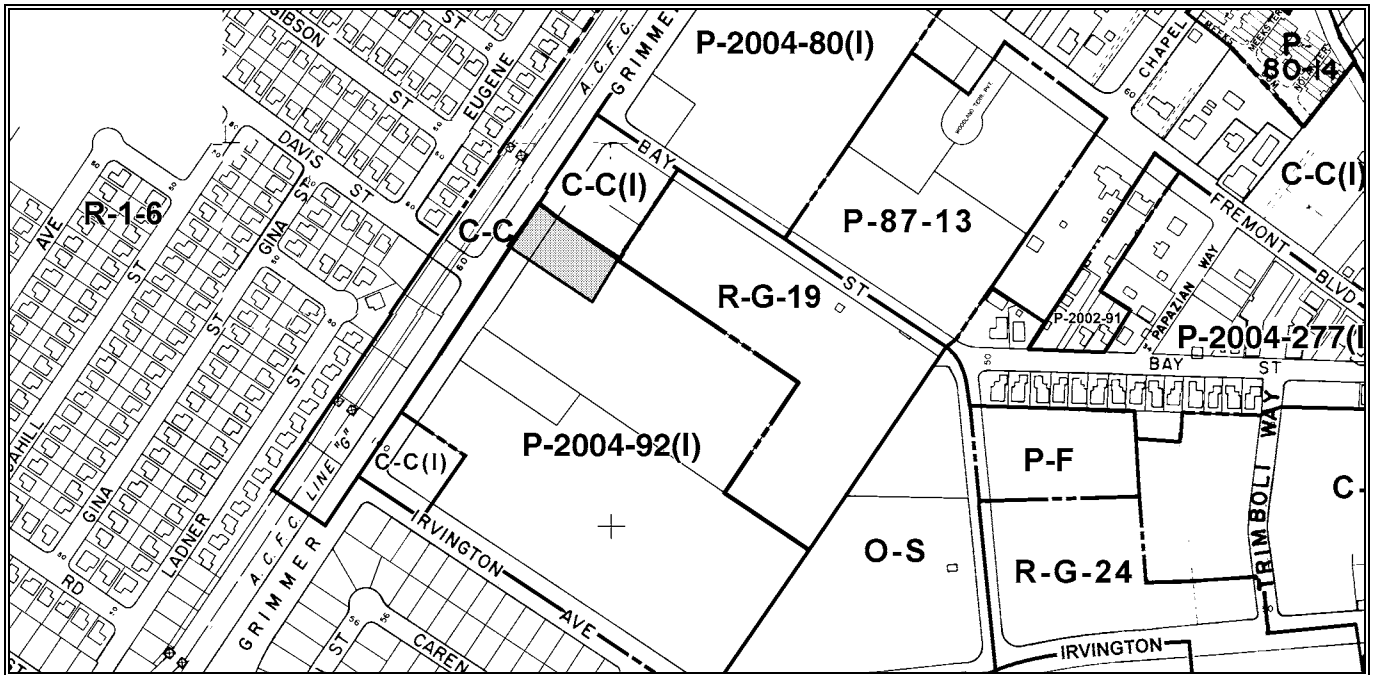
**EXHIBITS:** Exhibit "A" (Zoning)  
Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan)  
Exhibit "C" (Material Color and Sample Board)  
Exhibit "D" (Findings and Conditions for Site Plan and Architectural Approval and PD Major Amend.)  
Exhibit "E" (Findings and Conditions for Preliminary Grading Plan)

**Recommended Actions:**

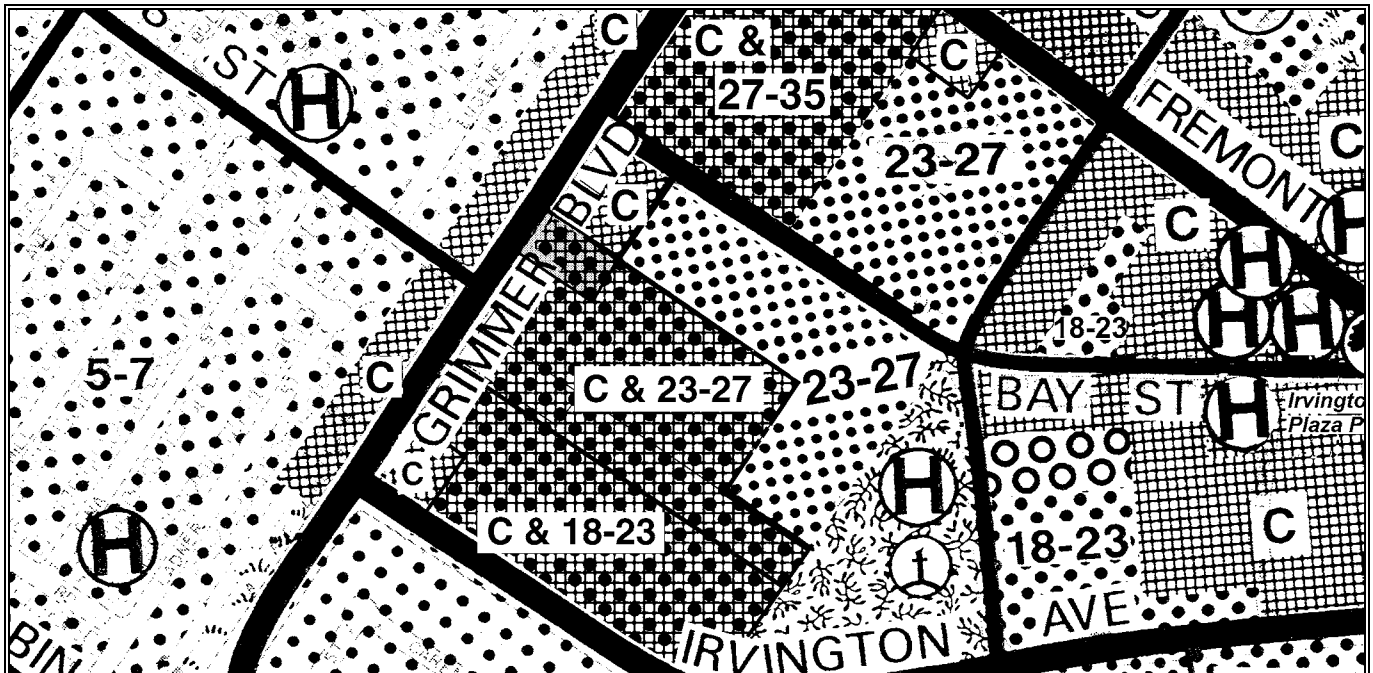
1. Hold public hearing.
2. Recommend that the City Council find the previous initial study conducted for the General Plan Amendment and Rezoning has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
3. Recommend that the City Council find that the previous Negative Declaration adopted for the General Plan Amendment and Rezoning considered all impacts related to the proposed project, and that no new impacts will result from this development.
4. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals and Land Use Chapters as enumerated within the staff report.
5. Find PLN2004-00307, as per Exhibit "A" (site plan, preliminary grading plan, elevations, floor plans, and landscape plan), fulfills the applicable requirements set forth in the Fremont Municipal Code.
6. Recommend to the City Council the rezoning as shown on Exhibit "A" (Zoning Exhibit) and Exhibit "B" Sheets T-1 through L-5 (site plan, preliminary grading plan, elevations, floor plans, landscape plan) and Exhibit "C" (material color and sample board) for PLN2004-00307 be approved, based upon the findings and subject to the conditions of approval set forth in Exhibits "D" and "E".



Existing Zoning  
Shaded Area represents the Project Site



Existing General Plan



# EXHIBIT "A"

Attached to and made a part of

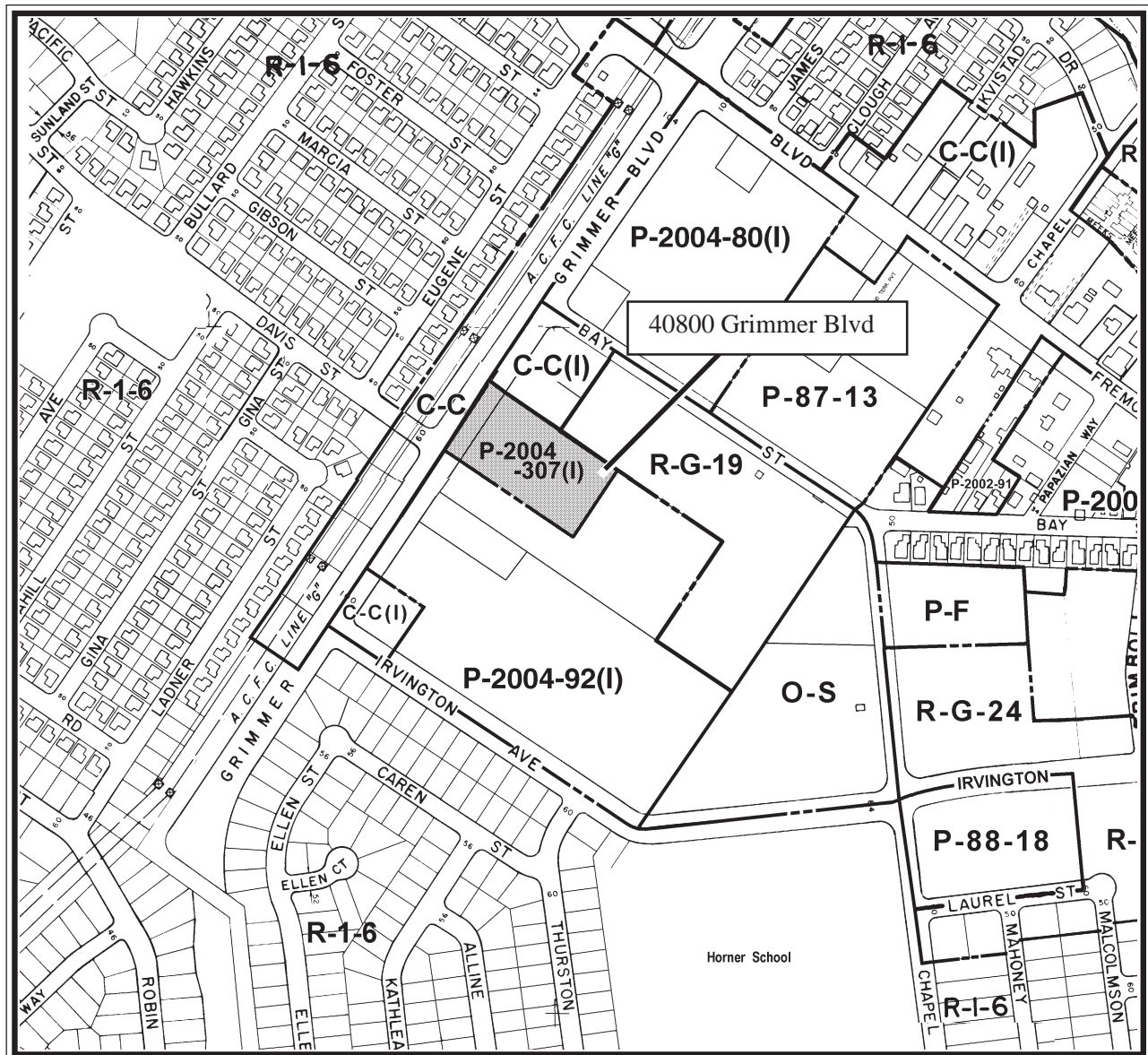
**Ordinance No.** \_\_\_\_\_

adopted by the City Council of the City of Fremont, California

**On the** \_\_\_\_\_ **day of** \_\_\_\_\_, **20**04.

## ZONING MAP (SECTION)

AFFECTS ZONING MAP(S) FOR THE IRVINGTON PLANNING AREA



**From:** P-2004-92(I)

**To:** P-2004-307(I)

[pc on 10-28-2004] 72-376, 72-380

**Project Name:** Irvington Family Apartments

**Project Number:** PLN2004-00307 (pd major amend)

**Exhibit "B"**  
**Findings and Conditions of Approval**  
**Irvington Family Apartments**  
**Site Plan and Architectural Approval and Planned District Major Amendment**  
**PLN2004-00307**

**Findings**

The findings below are made on the basis of information contained in the staff report to the Planning Commission and testimony at the hearing on October 28, 2004, incorporated herein:

1. Recommend that the City Council find the previous initial study conducted for the General Plan Amendment and Rezoning has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources.
2. Recommend that the City Council find that the previous Negative Declaration adopted for the General Plan Amendment and Rezoning considered all impacts related to the proposed project, and that no new impacts will result from this development.
3. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Fundamental Goals, Housing and Land Use Chapters as enumerated within the staff report.
4. Find that the proposed project, located in Planned District P-2004-307(I), is in substantial conformance with the standard and policies of the R-3 zoning district, and that based on the Site Plan and Architectural Approval process conducted, the exceptions granted to the general standards of the district are warranted for the reasons mentioned in the staff report herein.
5. Find that the proposed project represents an Affordable Housing Project and is entitled to a 10 percent reduction in the required number of parking spaces and find that other deviations in the technically required parking requirements are warranted based on the survey information submitted by the applicant and the conditions of approval and other reasons mentioned in the staff report herein.
6. Find that the Planned District Major Amendment to allocate density at 49 dwelling units per acre for a 2 acre site is consistent with the General Plan of the City of Fremont. The applicant's proposal to reallocate density on this 2 acre portion of an 8.6 acre site, considered in light of a separate proposal to reallocate density on the remainder of the 8.6 acre site at 18 dwelling units per acre, provides a cumulative density of 25 dwellings per acre for the entire 8.6 acre site, which satisfies the General Plan requirement to meet the mid-point of the density range of 23-27 dwellings per acre.

**Conditions**

**General Conditions (Must be satisfied on ongoing basis)**

- A-1 Approval of PLN 2004-00307 for the development of a 100 unit rental apartment with a small retail space (approximately 750 square feet) shall conform with Exhibit "B" (Site Plan, Preliminary Grading Plan, Elevations, Floor Plans, Landscape Plan), except as modified herein.
- A-2 The project, as presented, meets the City's Inclusionary zoning requirements as 49 percent of the units will be required by the Fremont Redevelopment Agency to be affordable to very low and low-income persons and families. This exceeds the 15 percent affordability requirement of the Inclusionary ordinance. Any modifications to this plan must continue to meet the City's Inclusionary zoning requirements. The monitoring of compliance with this requirement shall be administered by the City's Office of Housing and Redevelopment.

- A-3 All yard areas shall be landscaped, as indicated on the landscape plans, and all landscaped areas shall be kept maintained.
- A-4 The proposed fencing and walls, shall be maintained and kept in good condition.
- A-5 If, the 17 guest parking spaces located outside of the parking garage are reasonably determined by the Planning Director to be insufficient for the Apartment development, based on evidence submitted by the applicant, members of the public, apartment residents, or City staff, the applicant shall modify the parking garage so that a portion of the garage may be used for guest parking. To determine the sufficiency of the exterior visitor parking, the applicant will poll residents after the first six months of operation, and thereafter as necessary, to determine the sufficiency of the visitor parking provided. In the event that data at any point in time shows a need for additional visitor parking, guests will be allowed access to the garage through an intercom entry system that will allow residents to "buzz" visitors into the secured garage and a portion of the parking spaces in the first traffic aisle of the parking garage will be designated for "Visitor Parking Only" through the use of signage. If the applicant's measures to determine the sufficiency of parking are not effective, and the Planning Director is made aware of complaints relating to the availability of guest parking, the City of Fremont may require the applicant to install the guest parking features within the secured garage as described in this condition A-5.
- A-6 The use of balconies shall remain clear of the storage of materials. Enclosed storage space has been planned for each unit. The CC&R's shall include a condition which requires that balconies shall remain clear of the storage of materials and the property management shall enforce this condition.

**Prior to issuance of building permit/During Construction**

**Planning**

- B-1 Plans shall be submitted to the Development Organization for review and approval to ensure conformance with relevant codes, policies, and other requirements of the Fremont Municipal Code. The plans shall be in conformance with all local, state and federal fire and building regulations.
- B-2 Minor modifications to the approved building designs, elevations and colors may be made, subject to review and approval of the Assistant City Manager or his/her designee if such modifications are in keeping with the architectural style of the original approval. However, the Assistant City Manager shall retain the authority to determine the level of review required, including a Planning Commission review.
- B-3 The street lighting illumination level for the private vehicle access ways shall meet public roadway standards. The proposed lighting of the main aisle shall be located to reduce the potential for glare or light spillage onto adjacent properties.
- B-4 Lighting associated with the project area shall be subject to staff review and approval during the Development Organization review process, and shall be of a pedestrian scale, and residential and decorative nature.
- B-5 The applicant shall work with staff to refine the details of fencing, railing on patios and other architectural details during the Development Organization review process. This includes fencing and walls throughout the development, not just on the building.
- B-6 Prior to the removal of any existing structures, the applicant shall obtain a demolition permit from the City.
- B-7 The project shall be subject to all Citywide development impact fees. These fees may include, but are not limited to, fees for fire protection, park dedication, park facilities, capital facilities and traffic impact. The fees shall be calculated at the fee rate in effect at the time of building permit issuance.

B-8 The density reallocation of this site to a density of 49 dwellings per acre is in effect with the approval of the Planned District Major Amendment. Any other development of the site, other than the development approved as part of P-2004-307, shall meet a minimum density of 49 dwellings per acre.

B-8 All provisions of the Mitigated Negative Declaration are incorporated into these conditions of approval. These provisions include and must be complied with during the pre-construction and construction phases of the project:

**Mitigation #1:** Future construction ... shall comply with dust suppression measures. Dust generated on the project site shall be controlled by watering all exposed areas at least twice daily during excavation, and especially during clearing and grading operations. Additional watering on windy or hot days is required to reduce dust emissions. Cover stockpiles of sand, soil and similar materials with a tarp. Cover trucks hauling dirt or debris to avoid spillage. In areas where construction is delayed for an extended period of time, the ground shall be re-vegetated to minimize the generation of dust. A contact person shall be designated to oversee the implementation of dust control. In terms of demolition activities, applicants and or owners shall be required to receive the appropriate approvals from all regulatory agencies, including a "J" number from the Bay Area Air Quality Management District (BAAQMD).

**Mitigation #2:** Future residential development that could be facilitated as a result of this project shall be reviewed for consistency with regional, state and Federal air quality standards. If any such standards are identified as being exceeded, appropriate steps shall be included within such project to ensure consistency. These measures may include but are not limited to providing convenient public transit stops near the sites, providing bicycle facilities, providing car pool information to residents and similar actions.

**Mitigation #3:** Should any human remains or historical or unique archaeological resources be discovered during site development work, the provisions of CEQA Guidelines, Section 15064.5.(e) and (f) will be followed to reduce impacts to a non-significant level.

**Mitigation #4:** Prior to any future residential uses ... a Phase I Environmental Site Assessment shall be performed by a licensed professional to identify historic sources of soil or groundwater contamination. If recommended by the Phase I analysis, a Phase II analysis shall be performed and all recommendations of the Phase II analysis shall be implemented. (completed)

**Mitigation #5:** Prior to any demolition, renovation or removal of structures ...:

- a) An asbestos survey of existing structures shall be performed consistent with National Emissions Standards for Hazardous Air Pollution guidelines. If warranted, a remediation plan to remove asbestos shall be prepared and implemented. Said plan shall be consistent with applicable Fremont Fire Department standards, Bay Area Air Quality Management District requirements and Cal-OSHA standards. Necessary permits shall be obtained from all applicable regulatory agencies
- b) A lead based paint survey shall be conducted. If lead-based paint is encountered, the requirements as outlined in Cal OSHA Lead in Construction Standard, Title 8, CCR Section 1532.1 (or succeeding regulation) shall be followed.

**Mitigation #6:** An acoustic analysis shall be prepared for all future development projects that include a residential component to determine whether any part of the residential area lies inside a 60 dba exterior noise exposure contour. If so, the acoustic report shall identify specific measures to reduce outdoor use areas to the City of Fremont General Plan noise standard, including but not limited to placement of noise barriers and using buildings to buffer noise. The analysis shall also ensure that the City and State interior noise level for future residential structures do not exceed 45 dba. Recommendations made in acoustic analyses shall be incorporated into individual project designs.

## ***Landscaping***

- C-1 Branches from mature trees may not overhang buildings and roofs. Adequate space to plant trees adjacent to buildings or other built features must be provided in the following minimum ways:
- a) Small trees (to 15 feet tall) no closer than 6 feet from building or 2 feet from paving, curbs, or walls with a minimum planting area 5 feet wide.
  - b) Medium trees (to 30 feet tall) no closer than 10 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area 6 feet wide.
  - c) Large trees (above 30 feet tall) no closer than 15 feet from building or 3 feet from paving, curbs, or walls with a minimum planting area of 48 feet and a minimum width of 6 feet.
- C-2 The applicant shall provide *Platanus acerifolia* street trees of 24" Box size along Grimmer Boulevard planted at approximately 30' apart to be planted in a planting strip of minimum internal width of 5' and in conformance with City Standard Tree Detail SD-34.
- C-3 Any alterations to the right turn lane along Davis Street at the Grimmer Boulevard intersection shall not require the removal of more than 2 of the proposed street trees along Davis Street .
- C-4 The play area shall be of sufficient size to allow for the proposed equipment shown on the "Landscape Concept Plan" to be installed in compliance with Consumer Product Safety Commission (CPSC) guidelines for fall zones.
- C-5 All provisions of the City of Fremont Landscape Development Requirements and Policies (LDRP) shall apply to this project unless otherwise approved by the City Landscape Architect. The LDRP are available at the Engineering Counter.
- C-6 Planting areas containing trees over the parking structure shall have a minimum soil depth of 40" and minimum width of 10'. The applicant shall provide sections showing materials, soil depth and drainage to the Development Organization for staff review.
- C-7 All planting areas containing trees over the parking structure shall have a minimum soil depth of 40" and minimum width of 10'. The applicant shall provide sections showing materials, soil depth and drainage to the development organization for staff review.
- C-8 Screen planting consisting of trees and shrubs as shown on the "Landscape Concept Plan" shall be provided along the northeast boundary.
- C-9 A landscape plan shall be submitted to the Development Organization or the with Final Map Improvement Plans, or both, as directed by the City Landscape Architect, for review and approval, indicating full details regarding (1) paving materials and textures of walkways and paved pedestrian areas, (2) lighting of walkways and pedestrian areas with low intensity non-glare type fixtures, (3) screening of driveways and parking areas, and (4) landscaping of site and open areas. As part of the landscape plans the applicant shall submit:
- a) An underground irrigation plan.
  - b) Weed control specifications.
  - c) A lighting plan for the illumination of the building, pedestrian and parking areas. Type of lighting fixtures, their heights, intensity and direction shall be clearly indicated.
  - d) Construction details of raised planters, walkways, paths, benches, walls, fences, trellises, and other architectural features as appropriate to the project.

## **Environmental Services**

- D-1 Waste Storage: The applicant has enlarged the two trash/recycling areas in the garage, and has agreed to move the collection containers to a staging area outside for weekly collection. However, this staging area appears to be only 160 square feet in size, which will probably not be large enough to accommodate all of the collection containers at one time, on pickup day. The applicant shall continue to work with Environmental Services staff and BFI to refine the process of storing, moving, staging and collecting waste.
- D-2 The use of recycling chutes is still under consideration. The applicant shall work with Environmental Services staff to determine the need for trash and recycling chutes.
- D-3 Construction and demolitions (C & D) debris management: The Waste Handling Plan and Report forms must be submitted to the City of Fremont by the applicant prior to issuance of building permits. Following completion of the project, the applicant must document actual salvage and diversion by filling in and returning the Post-Project Waste Disposal & Diversion Report to Environmental Services. C & D material may be recycled through any recycling company licensed to do business in Fremont.
- D-4 The applicant will be provided the Multifamily Green Building Guide which outlines some design considerations in terms of water and energy conservation, reduced toxicity of building materials, and other resource efficiencies. The project architects should contact the Alameda County Waste Management Authority at (510) 614-1699 for more information and assistance with green building principles and design.

## **Engineering**

- E-1 The below-grade parking spaces will be assigned to residents and tenants of the apartment building. Details of how the spaces will be assigned shall be provided for staff review during Development Organization review for the building permit. If the parking garage design is revised to include guest parking, plans shall be submitted to the Development Organization, for review and approval.
- E-2 The below-grade parking garage shall be designed to provide adequate safety lighting, signing, and striping. Convex mirrors may be required at changes in drive aisle direction to provide for pedestrian and vehicular visibility, subject to staff approval during Development Organization review.
- E-3 The applicant shall comply with the City's Urban Runoff Clean Water Program in accordance with the NPDES requirements issued by the State's Water Quality Control Board.
- E-4 Prior to issuance of a building or grading permit for land disturbance greater than one acre, the applicant is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The applicant is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
- E-5 The project plans shall include storm water measures for the operation and maintenance of the project for the review and approval of the City Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on site that effectively prohibit the entry of pollutants into storm water runoff. The applicant shall execute and record against the property an Operations & Maintenance Agreement acceptable to the City's Environmental Services Division for the storm water measures.
- E-6 The applicant is responsible for ensuring that all contractors are aware of all storm water quality measures and that such measures are implemented. Failure to comply with the approved construction Best Management Practices will result in the issuance of correction notices, citations, or stop orders.
- E-7 The property owner is responsible for litter control and for sweeping of all paved surfaces. Sidewalks, parking lots, and other paved areas must be swept regularly to prevent the accumulation of litter and debris. If pressure

washed, debris must be trapped and collected to prevent entry into the storm drain system. No cleaning agent may be discharged to the storm drain.

- E-8 All on-site storm drains are to be cleaned prior to building occupancy and also be cleaned each year immediately before the beginning of the rainy season (October 15). Annual cleaning shall include inspection, maintenance, and/or replacement of catch basin filter inserts. The City Engineer may require additional cleaning.
- E-9 All landscaping shall be properly maintained and shall be designed with efficient irrigation practices to reduce runoff, promote surface filtration, and minimize the use of fertilizers and pesticides, which can contribute to runoff pollution.
- E-10 All paved outdoor storage areas must be designed to reduce and limit the potential for runoff of contact pollutants. Bulk materials stored outdoors may need to be covered as determined by the City Engineer.
- E-11 All public and private storm drain inlets are to be stenciled "No Dumping – Drains to Bay" using stencils purchased from the Alameda County Urban Runoff Clean Water Program at 951 Turner Court, Hayward, California. Color and type of paint to be as approved by the City Engineer. Alternative inlet marking may be proposed by the applicant, subject to review and approval of staff during Development Organization.
- E-12 The applicant and/or contractor shall notify Underground Service Alert (U.S.A.) at 1-800-227-2600 at least two working days before beginning any excavation for this project. A prominent note shall be included in the project plans requiring the notification of U.S.A.

#### **Fire**

- F-1 The applicant shall meet all requirements in the 2001 California fire code and all local amendments to that code in Ordinance #2485.



**EXHIBIT "E"**  
**Irvington Family Apartments**  
**Preliminary Grading Plan (PLN2004-00307)**

**FINDINGS:**

1. The proposed project described in the application will not have an appearance, due to the grading, excavation, or fill, substantially and negatively different from the existing natural appearance because the site is already developed, graded and improved with an existing use.
2. The proposed project described in the application will not result in geologic or topographic instability on or near the site. Based on geologic information available, the site is partially within a special studies zone for liquefaction. There are no fault zones or evidence of slides on the site which might be aggravated by the grading of the development. A seismic hazard study will be completed and submitted to the City for review and approval with the tentative map and the applicant will be required to construct the project in conformance with the recommendations of such study, thus minimizing and/or eliminating geologic or topographic instability.
3. The proposed project described in the application will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses; and will not result in debris being deposited on any public way. The adequacy of the existing sewer, water and drainage facilities proposed for the project has been reviewed by the different utility agencies and none have indicated that they cannot serve the project. The proposed development will not alter or obstruct the natural flow from abutting properties or divert drainage from its natural watershed, as this is an already developed site with storm drainage facilities. The applicant will be required to submit a plan to control erosion and siltation during and after construction for review and approval by the City Engineer.
4. Conformity, where applicable, to special concerns relating to the adopted Seismic Safety Element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology shall be accomplished at time of the tentative map. Supplemental data and substantiation of conclusions may be required by the City Engineer upon City review of the reports. The proposed development is within a special studies zone for liquefaction on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology. A seismic hazard study will be completed and submitted to the City for review and approval with the tentative map.
5. The proposed project described in the application will not unacceptably affect the health, safety, and or welfare of adjacent residents or landowners, nor the citizens of Fremont , as it is proposed to be constructed consistent with the General Plan, provides a variety of housing opportunities, is designed to relate to the street and adjacent developed parcels, and will assist in the elimination of blight in the area.

**CONDITIONS:**

1. The project shall conform with Exhibit "A" (Preliminary Grading Plan), all conditions of approval set forth herein, and all conditions of approval of Planned District PLN2004-00307.
2. Approval of this Preliminary Grading Plan does not extend to the final detailed design approval necessary to be accomplished in connection with the development plans.
3. Approval of this Preliminary Grading Plan shall terminate 24 months from the date of approval by the Planning Commission, or approval shall run concurrent with the approval and subsequent extensions of a tentative map on the project site.
4. A grading permit issued on the project site shall be in accordance with the Grading, Erosion, and Sediment Control Ordinance (Chapter 4, Title VIII of the Municipal Code). Grading shall be subject to the approval of the City Engineer.
5. The applicant shall provide for a functional system to control erosion and siltation during and after grading subject to review and approval by the City Engineer and/or Alameda County Flood Control and Water Conservation District. An erosion and sediment control plan shall be included as part of the grading plans.

6. Site grading shall not obstruct natural flow from abutting properties or divert drainage from its natural watershed.
7. A disposal site for the off-site haul dirt materials or source for the import fill shall be approved by the City prior to the approval of the grading permit. The off-site haul truck route for the excess dirt or import fill shall be subject to the approval of the City Engineer.
8. Prior to issuance of a grading permit for land disturbance greater than one acre, the developer is to provide evidence that a Notice of Intent has been filed and with the State of California Water Resources Control Board. Evidence shall include the WDID number assigned by the State. The developer is responsible for insuring that all contractors are aware of all storm water quality measures contained in the Storm Water Pollution Prevention Plan (SWPPP).
9. The applicant shall submit a detailed soils report, including recommendations regarding pavement structural sections, prepared by a qualified soils engineer registered by the State of California. The soils report shall include specific recommendations for on site pavement areas that will experience repeated exposure to heavy vehicle loads.
10. Grading operations shall be in accordance with recommendations contained in the required soils report and shall be supervised by an engineer registered in the State of California to do such work.
11. Proposed curb elevations for the street system shall not be less than 1.25 feet above the hydraulic grade line (design water surface) and at no point should the curb grade be below the energy grade line. On-site grades are to be a minimum of 0.75 feet above the hydraulic grade line.